

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

UNITED STATES OF AMERICA,
for the use and benefit of
DELTA METALS, INC.,

Plaintiff,

vs.

JJBRUN JOINT VENTURE, LLC,
and MARKEL INSURANCE COMPANY,

Defendants.

Case No. _____

COMPLAINT

COMES NOW Delta Metals, Inc., ex relatione United States of America, Plaintiff in the above-captioned action, and states as its Complaint the following:

Parties, Jurisdiction, and Venue

1. Plaintiff herein, Delta Metals, Inc. (“Delta Metals”), is a corporation organized and existing under the laws of the State of Georgia.

2. Delta Metals brings this case in the name of the United States of America as provided in 40 U.S.C. § 3133(b).

3. Defendant JJBrun Joint Venture, LLC (“JJBrun”), is a corporation organized and existing under the laws of the State of Texas, registered by the Georgia Secretary of State to transact business in the State of Georgia, and may be served with process by delivering to said Defendant’s registered agent for service, CT Corporation System, a copy of the Complaint and Summons at the office of said registered agent located at 289 South Culver Street, Lawrenceville,

Georgia 30046.

4. Defendant Markel Insurance Company, (“Markel”) is a Virginia insurance company, registered by the Georgia Secretary of State to transact in the State of Georgia, and may be served with process in this action by delivering to said Defendant’s registered agent for service, Corporation Service Company, a copy of the Complaint and Summons at the office of said registered agent located at 2 Sun Court, Suite 400, Peachtree Corners, Georgia 30092.

5. This action arises out of the performance of a contract and bonds on a federal public works project. The contract at issue was performed and executed at Fort Stewart, Liberty County, Georgia, which is located in the Southern District of Georgia. Jurisdiction and venue are therefore proper in this Court pursuant to 40 U.S.C. § 3133.

Facts

6. Plaintiff re-alleges each allegation contained in Paragraphs 1 through 5 of this Complaint as if stated fully herein.

7. JJBrun entered into that certain Contract No. W912DY-18-D-0002 dated November 16, 2017, with the United States of America to serve as the contractor on a construction project known as Hawks Clinic, Bldg. 412 / Hawks Troop Medical Center, located at Fort Stewart, in Liberty County, Georgia (the “Project”).

8. In its role as a contractor for the United States, JJBrun entered into that certain Subcontract with Delta Metals dated November 16, 2017, pursuant to which Delta Metals was to furnish labor and materials for the installation of a roof and related work on Hawks Clinic, Bldg. 412.

9. Pursuant to said Subcontract, Delta Metals did furnish the Project with labor and materials to install the roof and related work on Hawks Clinic, Bldg. 412.

10. On or about September 29 and 30, 2020, Markel issued Payment Bond Nos. 4442235 and 4442250 ("Markel Bonds") jointly with JJBrun, to ensure the payment of all subcontractors, laborers, and materialmen working or providing goods and services on the Project, in accordance with 40 U.S.C. § 3131 et seq.

11. JJBrun has failed to pay the full amount owing to Delta Metals for the above-described labor and materials supplied for use in the Project, therefore entitling Delta Metals to make a claim against the Markel Bonds for payment owing on same.

12. The above-described labor and materials supplied by Delta Metals to install the roof and related work on Hawks Clinic, Bldg. 412 were used by JJBrun to construct the Project.

13. The Markel Bonds were executed to guarantee payment of the types of claims asserted by Delta Metals. The unpaid principal amount owing to Delta Metals for the above-described labor and materials supplied for use in the Project, to wit, \$352,163.97, does not exceed the sum of \$119,241,000 stated in the Bonds.

Action on Bond

14. Plaintiff re-alleges each allegation contained in Paragraphs 1 through 13 of this Complaint as if stated fully herein.

15. Markel and JJBrun jointly issued the Markel Bonds so as to, among other things, ensure payment to laborers and materialmen who supplied materials on the Project.

16. The Markel Bonds were issued in accordance with 40 U.S.C. § 3131.

17. Delta Metals provided labor and materials for the installation of the roof and related

work on Hawks Clinic, Bldg. 412, to be used by JJBrun in the construction of the Project.

18. Delta Metals has not been paid for the above-described labor and materials used in the construction of the Project.

19. Markel and JJBrun are jointly and severally liable for payment to Delta Metals for the outstanding principal amount of \$352,163.97 owing Delta Metals under the terms of the Markel Bonds.

20. Delta Metals sent a notice of non-payment concerning the debt for the above-described labor and materials for use on the Project to JJBrun and Markel within 90 days from the date on which it last furnished the labor and materials for use in the Project.

21. Plaintiff provided documentary evidence of its claim but Defendants have wrongfully refused to pay.

22. One year has not passed since Delta Metals last furnished labor and materials for use on the Project.

23. Delta Metals has fulfilled all conditions precedent to the filing of this lawsuit and this action.

24. JJBrun and Markel are jointly and severally liable for the debt to Plaintiff of \$352,163.97. Additionally, Defendants are liable for interest on the liquidated sum from January 2022.

25. JJBrun and Markel are likewise jointly and severally liable for all attorneys' fees incurred by Plaintiff as a result of their bad faith failure to pay Plaintiff's claim (Plaintiff will withdraw its prayer for attorneys' fees against Defendants if payment of principal and interest is made within thirty (30) days of service of the Summons and Complaint).

Breach of Contract

26. Plaintiff re-alleges each allegation contained in Paragraphs 1 through 25 of this Complaint as if stated fully herein.

27. Delta Metals entered into the above-referenced Subcontract with JJBrun for labor and materials for use in the Project.

28. Delta Metals thereafter provided the agreed-upon labor and materials for use in the Project.

29. JJBrun breached its Subcontract with Delta Metals as set forth above and is liable to Delta Metals for breach of contract.

WHEREFORE, Plaintiff demands a trial by jury of its claims, to the extent not disposed of as a matter of law, and prays that it recover against both Defendants, jointly and severally, for payment of the outstanding amount owing Delta Metals, specifically \$352,163.97, plus all accrued interest, in addition to Plaintiff's reasonable attorneys' fees and costs of this action.

RESPECTFULLY SUBMITTED this the 9th day of December, 2022.

OLIVER MANER LLP

/s/ R. BENJAMIN LINGLE

R. BENJAMIN LINGLE

Georgia Bar No. 390252

Attorney for Plaintiff

P. O. Box 10186
Savannah, GA 31412
Phone: (912) 236-3311
Fax: (912) 236-8725
Email: blingle@olivermaner.com